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Chairman: Mr. Politi ..... (Italy)

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00-67959 (E)

The meeting was called to order at 10.10 a.m.

Agenda item 164: Measures to eliminate international terrorism

1. **The Chairman** said that the Working Group of the Sixth Committee established pursuant to General Assembly resolution 51/210 had met from 25 September to 6 October. In accordance with its mandate under General Assembly resolution 54/110, the Working Group had begun the elaboration of a comprehensive convention on international terrorism, and had continued informal consultations on issues relating to the draft international convention for the suppression of acts of nuclear terrorism and on the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism. Good progress had been made on the text of the draft comprehensive convention on international terrorism, and work would continue during the following year in the Ad Hoc Committee established by General Assembly resolution 51/210. With regard to the draft international convention for the suppression of acts of nuclear terrorism, he said that Ms. Steains (Australia) had agreed to continue to coordinate informal consultations and to report to the Sixth Committee when it took up agenda item 164. On the question of a high-level conference on international terrorism, the Chairman of the Working Group had invited interested delegations to continue consultations and to approach him with proposals.

Agenda item 158: Report of the United Nations Commission on International Trade Law on the work of its thirty-third session (A/55/17)

2. **Mr. Chan** Wah-Teck (Chairman of the United Nations Commission on International Trade Law) said that at its twenty-eighth session, the Commission had decided to prepare a uniform legal instrument on assignment in receivables financing in order to facilitate the development of international trade and promote the availability of credit at more affordable rates. As matters stood, the legal regime applicable to the assignment of receivables differed from State to State. In order for an assignment to be valid as against the debtor and third parties, States generally required compliance with the requirements and formalities of their domestic law, which could result in an assignment being valid in the State in which it was concluded but unenforceable against the debtor in another State. Furthermore, many of the legal rules applicable to the assignment of receivables were not suitable for the financial transactions currently being carried out, which were not only innovative but also very complex. That uncertainty made assignments of receivables an impractical commercial transaction in a cross-border context. Furthermore, the risk factor associated with assignment made credit obtained in that way more costly.

3. The Working Group on International Contract Practices had been entrusted with the task of drafting a uniform legal instrument to address that problem. During the early stages of its work, the Commission had decided that the instrument should take the form of a draft international convention rather than a model law. The Working Group had completed its work in October 1999 and the draft convention had been submitted for the Commission's consideration at its thirty-third session. The draft consisted of six chapters and an annex, which, together with a highly detailed commentary prepared by the Commission secretariat, had been circulated to States. Many of them had submitted valuable written comments. The Commission had been able to complete discussion of only 17 of the 43 articles of the draft but had been able to resolve some of the most difficult issues.

4. For some, the Commission's most important achievement had been to determine the scope of application of the draft convention, currently referred to as the "Convention on the assignment of receivables in international trade". After extensive discussions, the Commission had determined that the draft convention would apply to both the international assignment of receivables and the assignment of international receivables where the assignor was located in a contracting State. A significant decision had been to include subsequent assignments within the Convention's scope when certain requirements were met. It had also been decided to limit the scope of the Convention to contractual rights to payment of a monetary sum. In other words, the Convention would not apply to assignment of the proceeds of claims relating to personal injury or to unilateral assignments since the primary purpose of the Convention was to facilitate trade.

5. Owing to its international nature, the Convention would apply only where the assignor and the debtor were located in different States and in respect of an

assignment transaction if, at the time of conclusion of the contract of assignment, the assignor and assignee were located in different States. The Commission therefore had had to determine the meaning of the term "location", which had proved very difficult since that concept varied greatly under different legal systems. After extensive deliberations, the Commission had been able to resolve that issue and formulate a definition that was commercially workable, easily understood yet flexible enough to be applicable to different types of legal persons in different jurisdictions.

6. On the issue of party autonomy, while the Convention protected the freedom of the parties to settle between themselves the terms of their transaction, the Commission had felt that the Convention must of necessity contain certain limitations. Thus, the draft convention provided that parties might not vary or derogate from provisions which affected the legal position of third parties or excluded the Convention as a whole. That meant that, except for a few specific situations, parties might not by agreement prevent the effective assignment of receivables generated by the transaction between themselves. Party autonomy, however, was entrenched as a principle in article 17 of the draft, which stated that "an assignment does not, without the consent of the debtor, affect the rights and obligations of the debtor ...". That meant if an assignor contravened an anti-assignment clause, he remained liable to the debtor for breach of the anti-assignment clause even though assignment of the receivable would be a valid transaction. The debtor remained protected at all times, without prejudice to the rights of the assignee.

7. The Commission had paid special attention to ensuring that the Convention did not disrupt well established financial practices. It had not been difficult to exclude receivables arising from complex financial transactions. Less easy had been the exclusion of receivables arising from real estate transactions, because many countries prohibited non-citizens from having interests in land. That concern had been addressed by the provisions of the draft convention which had given full effect to the national law applicable to land. It should be noted that the Commission had taken pains to ensure that national laws were not negated or rendered ineffective by the rules in the draft convention.

8. The Commission had also considered other important issues, including the assignment of future receivables, bulk assignments and partial assignments. In order to avoid the very difficult question of form, it had been established as a "safe harbour" rule, that formal validity would be determined by the law of the assignor's location.

9. The Commission had decided to reconvene the Working Group and to request it to examine the remaining 26 articles in the light of the decisions taken by the Commission at its thirty-third session. The Working Group had been scheduled to undertake that work in December 2000 in Vienna and to complete its work at the current session. The report of the Working Group would be considered by the Commission at its session in Vienna in June and July 2001. At that session, the Commission should be able to complete its substantive work and also settle upon the modality for its adoption by States.

10. Privately financed infrastructure projects were attracting increasing interest, particularly in developing countries and countries with economies in transition, as an opportunity for achieving savings in public expenditure and higher standards of service, as well as for re-allocating resources in order to meet more pressing social needs. Such projects were usually complex and their implementation required a favourable legal framework. The purpose of the Legislative Guide was to assist national, provincial or local legislative bodies in reviewing the adequacy of laws, regulations, decrees and similar legislative texts, as well as contractual provisions relevant to the execution of such projects. Matters addressed included essential elements of enabling legislation, procedures for the award of privately financed infrastructure projects, general terms of project agreements, changes in circumstances and settlement of disputes. An attempt had been made to achieve a balance between the need to attract private investment and the need to protect the interests of the host Government and the public. The Guide did not provide a single set of model solutions, but helped to evaluate different approaches available and to choose the most suitable in the national context.

11. The Commission had mandated the publication of the Guide under the title "UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects" and requested the secretariat to transmit the text of the Guide to Governments and other interested bodies. It

had also recommended that all States should give favourable consideration to the Legislative Guide when revising or adopting legislation relevant to privately financed infrastructure projects. It was expected that the Legislative Guide would be a useful tool to assist governments, in particular those of developing countries and countries with economies in transition, in the establishment of a favourable legal framework for private investment in such projects. In order to disseminate knowledge about the Legislative Guide, it had been agreed that it would be desirable for the secretariat, in cooperation with interested international organizations or international financial institutions, to organize a colloquium where participants would be invited to make recommendations on the desirability and feasibility of preparing a model law or model legislative provisions on selected issues governed by the Legislative Guide. That would help the Commission to make an informed decision in that regard at its next session.

12. In furtherance of its work on the Model Law on Electronic Commerce, the Commission had entrusted the Working Group on Electronic Commerce with the preparation of rules on electronic signatures. At its thirty-first session in 1998, the Commission had noted that the Working Group had experienced difficulties in reaching a common understanding of the new legal issues arising from the increased use of digital and other electronic signatures and in achieving consensus as to how those issues might be addressed in an internationally acceptable legal framework. Those difficulties had been overcome during later sessions of the Working Group.

13. In the area of electronic commerce, three topics had been suggested for the future work of the Working Group. The first was electronic contracting, considered from the perspective of the United Nations Convention on Contracts for the International Sale of Goods, which had been generally felt to constitute a readily acceptable framework for on-line contracts dealing with the sale of goods. The second topic was dispute settlement, particularly, whether specific rules were needed to facilitate the increased use of on-line dispute settlement mechanisms. The third concerned dematerialization of documents of title, particularly in the transport industry. It had been suggested, among other things, that work might be undertaken to assess the desirability and feasibility of elaborating a uniform statutory framework to support the development of contractual schemes currently being developed to replace traditional paper-based bills of lading by electronic messages.

14. With regard to arbitration, the Commission had decided at its thirty-second session, held in 1999, that its future work should relate to conciliation, requirement of written form for the arbitration agreement, enforceability of interim measures of protection and possible enforceability of an award that had been set aside in the State of origin. The Working Group on Arbitration had been entrusted with the task of preparing the necessary documentation relating to those topics. The Working Group had commenced its work and had also identified other topics, with various levels of priority. The Commission had requested the Working Group to pay particular attention to what was feasible and practical and to issues where court decisions left the legal situation uncertain and unsatisfactory.

15. The Commission had given the Working Group on Insolvency Law the mandate to prepare a comprehensive statement of key objectives and core features for a strong insolvency regime, including consideration of out-of-court restructuring and a legislative guide containing flexible approaches to the implementation of such objectives and features. It had been felt that a legislative guide similar to the one on privately financed infrastructure projects might be useful and could contain model legislative provisions, where appropriate. The Working Group had been requested to be mindful of the work under way or already completed by such organizations as the International Monetary Fund, the World Bank, the Asian Development Bank and the International Bar Association.

16. With regard to international transport law, the Commission had noted the secretariat's cooperation with other international organizations, which had led, inter alia, to the convening of a Transport Law Colloquium on 6 July 2000 in the context of the Commission's session. At its thirty-fourth session, the Commission would have before it a report which would include ideas gathered at the Colloquium and identify issues which the Commission could incorporate in its future work in that area.

17. Since the subject of security interests was becoming increasingly important, the secretariat had been requested to prepare a study on secured credit law

for the 2001 session of the Commission. The Commission would then decide whether there was a need for a uniform law in that area, and whether it was feasible.

18. The Commission had also considered activities under the system established for the collection and dissemination of case law on UNCITRAL texts (CLOUT). Despite its limited resources, the UNCITRAL secretariat operated an extensive training and assistance programme, which was particularly useful for developing countries lacking expertise in the areas of trade and commercial law. However, the secretariat must cooperate with development assistance agencies providing or financing technical assistance in order to prevent the adoption of national laws that would not represent internationally agreed standards such as those prescribed in UNCITRAL conventions and model laws. The Commission had thus decided to recommend to the General Assembly that it should request the Secretary-General to increase substantially the financial resources of its secretariat.

19. The Commission and its secretariat had made a significant contribution to the development and harmonization of international trade law and continued to explore new areas in which they could contribute to economic development and legal certainty. In doing so, they were making every effort to cooperate with other organizations, within and outside the United Nations system, although overlapping of work and conflicting initiatives must be avoided. The secretariat would continue to follow closely the work of other organizations and, to the extent permitted by its limited resources, participate in meetings of other international organizations in order to ensure that its views were taken into account.

20. It was universally accepted that economic development and economic opportunities were essential to overall peaceful development and harmonious relations between States. The adoption of market principles by many countries with developing and emerging economies was viewed as the primary means to prosperity and development. The international community realized that an investment in that process was an investment in peaceful relations and a stable future. By the same token, an investment in UNCITRAL was an investment in a stable legal environment conducive to development and economic prosperity.

21. The dissemination of knowledge, experience and shared practices with regard to those UNCITRAL texts could greatly enhance the ability of governments to establish the legal regime required to attract investments and eliminate obstacles to trade. To that end, the UNCITRAL secretariat had undertaken a substantive training and assistance programme to disseminate information on UNCITRAL texts, and to promote a discussion of experiences and practices. However, owing to a shortage of staff and resources, the secretariat was unable to respond fully to the growing demand for such training and technical assistance. The governments represented on the Commission must realize the need to build awareness of the work of UNCITRAL and promote those activities, which were so essential and beneficial to developing countries. Achieving that objective would require comparatively modest resources, in fact minimal resources compared to the initial investment that had gone into the preparation of the texts. The harmonization and unification of international trade law was not an end in itself. The activities of the Commission and its secretariat must be supported and strengthened in order to ensure that the effort, time and resources invested in the preparation of its texts had not been in vain.

22. In the context of the work of the UNCITRAL secretariat, he praised the work of Dr. Gerold Herrmann, Secretary of the Commission, who would be retiring at the end of January 2001, and mentioned some of the Commission's major achievements under his leadership. In conclusion, he referred to a study, prepared by non-United Nations experts, on the work of the Organization in the area of international commercial development, which mentioned the contribution of the work of UNCITRAL to the growth and security of international trade, and its importance as an international vehicle for the harmonization of trade law.

23. **Mr. Barthélémy** (France) said that he welcomed the adoption of the Legislative Guide on Privately Financed Infrastructure Projects, which reflected in a balanced manner the diversity of major legal regimes. He hoped that the draft convention on the assignment of receivables in international trade could be finalized during the 2001 session of the Commission and stressed that the only exclusions should concern the substantive scope of the Convention.

24. In addition to dealing with the harmonization and unification of the law, the Commission should provide technical assistance to developing and transition States that were, or wished to become, parties to the instruments adopted by the Commission; in that regard, there was a need to promote training and assistance activities. His Government, for its part, would allocate 100,000 French francs during the current year to the special fund established for that purpose.

25. His Government firmly reiterated its request for strict adherence to the system of official and working languages of the United Nations, and it called on the Commission, in the course of its work, to follow the schedule included in its provisional agenda in order to promote the broadest possible participation of Member States in the Commission's sessions.

26. **Mr. Tarabrin** (Russian Federation) said that he welcomed the adoption of the Legislative Guide on Privately Financed Infrastructure Projects, which was of great interest to the Russian Federation as a means of promoting investments in that country.

27. The appearance of electronic commerce throughout the world made it necessary to establish and develop international legal norms to regulate electronic trade operations. His Government, which was aware of that situation, supported the elaboration of a legal instrument on electronic signatures. It also urged the Commission to complete the draft convention on the assignment of receivables in 2001.

28. He commended the Commission's work in the areas of publication, training programmes and the provision of technical assistance and requested that the secretariat's human and financial resources should be strengthened so that the Commission could complete its work.

29. **Mr. Marschik** (Austria) said he was pleased that the Secretary-General had recently stressed the importance of enhancing the rule of law and providing assistance to Governments in the implementation of international law. Assisting Governments in the implementation of international trade law was one of the main functions of the Commission's secretariat. He hoped that the Secretary-General would find a way to strengthen the UNCITRAL secretariat so that its chronic lack of resources would not affect the output and quality of its work. For its part, Austria would continue to provide infrastructure, such as conference facilities and a specialized library, and hoped that the contribution made by the secretariat staff in Vienna, the geographical proximity to the regions in which programmes were implemented and the Commission's excellent relations with the local academic and legal communities would alleviate the burden on the secretariat.

30. Turning to the results of the Commission's thirty-third session, he congratulated the Commission on the adoption of the Legislative Guide on Privately Financed Infrastructure Projects and welcomed its decision to focus primarily on the legislative recommendations in order to conclude its consideration of the draft guide during that session. The existence of a legislative and regulatory framework for infrastructure projects would reassure all potential private investors; in that respect, the Legislative Guide would be extremely useful to States striving to attract private investment for infrastructure projects. He encouraged all States that revised or adopted legislation in that regard to give favourable consideration to the Guide.

31. His Government supported the decision to further discuss the preparation of a model law on privately financed infrastructure projects at the Commission's next session. While such a task would be demanding, the Commission should proceed if it reached the conclusion that large numbers of States, especially developing States, would benefit therefrom.

32. With respect to the preparation of a convention on the assignment of receivables, his delegation took note of the progress achieved and supported the goal of concluding the work at the 2001 session. He welcomed the mandate of the Working Group on that issue and, in particular, the procedural guidance regarding the methods of work that would enable the Commission to achieve that goal.

33. In the field of electronic commerce, Austria had supported the Commission's decision to prepare uniform rules on the legal issues of electronic signatures and had closely followed the deliberations of the Working Group on that matter. He therefore welcomed the Working Group's adoption of articles 1 and 3 to 12 of the uniform rules and the proposal to conclude the work at the next session of the Working Group. With regard to the Commission's future work in that area, he was pleased that the Working Group would consult urgently on the various proposals and

welcomed efforts to ensure coordination between international organizations active in the field.

34. His delegation had followed with great interest the progress of the debate on settlement of commercial disputes, insolvency law, transport law and security interests and considered that the Commission should cooperate with other organizations active in those areas in order to improve coordination and avoid the duplication of efforts.

35. He commended the role of the secretariat in promoting awareness of the Commission's work, especially the collection and dissemination of case law on UNCITRAL texts (CLOUT), as well as the organization of training and technical assistance seminars. It was regrettable that in recent years, due to the lack of resources, an increasing number of requests for seminars and technical assistance had had to be turned down. In that regard, he mentioned the Willem C. Vis International Commercial Arbitration Moot that had been organized by Pace University in Vienna from 15 to 20 April 2000. The event had helped to raise public awareness of international trade law. The large number of participants had underlined the considerable interest that international trade law and arbitration generated throughout the world. The next Moot Court would be held in Vienna from 6 to 12 April 2001.

36. **Ms. Tan** (Singapore) said that her delegation was encouraged by the progress that had been made by UNCITRAL at its thirty-third session, although much work remained to be done, including completing work on the draft convention on the assignment of receivables in international trade. In that regard, the Working Group should not raise new issues or reopen discussions that had already been settled.

37. Her delegation was particularly pleased that UNCITRAL was addressing many issues arising from electronic commerce, which held out the promise of a borderless trading system for the whole world. In order to achieve that goal, UNCITRAL should continue to pay close attention to the elimination of barriers to electronic commerce.

38. Her delegation commended UNCITRAL for its work with respect to the consideration of modalities for developing and harmonizing international transport law, with special emphasis on the impact of technology on such law.

39. UNCITRAL should try to ensure that its texts were not too wordy; that would require drafting in language that was concise, clear and easy to read. Moreover, it was also said that UNCITRAL texts tried to cover too much ground, which might actually open up new areas of uncertainty. Texts should set out clearly the principles applicable to the transactions they addressed; the courts could refine the rules emanating from such principles and adapt them to particular situations. In that way, an international jurisprudence on UNCITRAL texts could be easily developed, since the CLOUT mechanism already existed for the dissemination of such jurisprudence.

40. Singapore, which attached the highest importance to the texts produced by UNCITRAL, had incorporated into its domestic law the United Nations Convention on Contracts for the International Sale of Goods, the UNCITRAL Model Law on Electronic Commerce and the UNCITRAL Arbitration Rules, which had served as the basis of the Arbitral Rules of the Singapore International Law Arbitration Centre.

41. **Mr. Witschel** (Germany) said that UNCITRAL had been unable to complete its work on the draft convention on assignment of receivables and had decided to mandate the Working Group to consider the unresolved issues. The Working Group would have to be very focused in its work in order to achieve tangible and broadly acceptable results. Since the convention would require a sufficient number of ratifications before it could enter into force, the Working Group would have to take into account the comments made by Governments.

42. He was concerned that various bodies of the United Nations were considering the same topics. Such was the case, for example, with respect to arbitration and transport law, which were on the agendas of the Economic Commission for Europe (ECE) Advisory Group and UNCITRAL. According to General Assembly resolution 2205 (XXI) of 17 December 1966 on its establishment, UNCITRAL was the competent institution to deal with questions of international trade law of global significance and scope. Bodies and institutions with regional mandate, on the other hand, could not guarantee the participation of all countries, which was necessary for the acceptance of international legal texts. In that regard, duplication of work and conflicts of competence should be avoided not only within the United Nations system, but also between the United Nations system and other international

organizations. Thus, there was an increasing overlap between the mandate of the Hague Conference on Private International Law and the International Institute for the Unification of Private Law (UNIDROIT). Moreover, in the case of the draft convention on the assignment of receivables, there was a potential overlap with the draft UNIDROIT convention on international interests in mobile equipment. According to the UNCITRAL report, a new conflict appeared to be emerging in connection with the issue of security interests. UNIDROIT had taken up the issue in 1988, but had assigned a low priority to it. The current keen interest in seeing UNCITRAL take up the issue as a high priority seemed to be motivated by particular interest groups which hoped to wield more influence within the framework of UNCITRAL than in a UNIDROIT working group. In that regard, UNCITRAL would be able to protect its reputation only if it avoided being taken hostage by particular interests.

43. **Ms. Rasi** (Finland), speaking on behalf of the Nordic countries, said that, in view of the increasing globaliza... of the world economy, the vital role of UNCITRAL in the development of international trade law, could not be overemphasized. In that regard, she highlighted the UNCITRAL conventions, model laws and guidelines that had been widely accepted as the rules applicable to international trade. With a view to the future, there was a need to provide the UNCITRAL secretariat with sufficient resources for it to be able to effectively meet the challenges of global trade in the twenty-first century. Particular attention should be paid, in that regard, to the legal framework of international trade in developing countries.

44. There were other organizations involved in the development of international trade law at the global or regional level that were doing valuable work. However, any duplication of work must be avoided. Her delegation therefore wished to appeal to all governments to promote a sensible and efficient division of labour among such international organizations, which would have to coordinate their work programmes. It would also be useful to discuss issues related to the coordination of work performed by the relevant organs of the United Nations system.

45. She expressed satisfaction that, at its thirty-third session, UNCITRAL had adopted the Legislative Guide on Privately Financed Infrastructure Projects. However, the Commission had not finalized the draft convention on assignment of receivables which she hoped would be ready by the next session together with the draft uniform rules on electronic signatures.

46. She welcomed the inclusion of new projects in the Commission's programme of work, such as those relating to security interests and transport law. It was also important to adapt the rules on international arbitration proceedings to present-day technology.

47. Finland, the only Nordic country on the Commission, would not be seeking re-election when its term expired. In that connection, her delegation noted with satisfaction that Sweden had declared its candidacy.

48. **Mr. Singh** (India) welcomed the adoption, at the current session of the Commission, of the Legislative Guide on Privately Financed Infrastructure Projects; however, in view of the diversity of national legal traditions and administrative practices and the highly complex legal issues which such projects involved, it would be desirable to wait and see how the Legislative Guide worked in practice before attempting to elaborate a model law or model legislative provisions in that field. He also noted with satisfaction the progress made in the elaboration of the draft convention on assignment of receivables; the Commission had adopted 17 articles at its most recent session.

49. With regard to electronic commerce, the rules formulated by the Commission must be acceptable to States with different legal, social and economic systems. India had recently adopted the Information Technology Act, based on the UNCITRAL Model Law on Electronic Commerce, with the aim of encouraging alternatives to paper-based methods of communication and storage of information. Rules regarding the appointment of the various regulatory bodies as well as the qualifications for certifying authorities were currently being framed and, once finalized, would, together with the Information Technology Act, provide a complete set of legal rules to support electronic commerce. After the Commission completed its elaboration of draft uniform rules on electronic signatures, uniform rules or model laws should be drafted on electronic contracting from the perspective of the United Nations Convention on Contracts for the International Sale of Goods, dispute settlement and dematerialization of documents of title.

50. With regard to the insolvency regime, he said that the Working Group given the mandate to prepare a

legislative guide in that area should take a flexible approach that would leave options and policy choices open to States, since a single model law on insolvency was neither feasible nor essential. Moreover, the legislative guide being elaborated could contain model legislative provisions. The Working Group should also take into account the work under way or already completed by other organizations such as the International Monetary Fund, the World Bank, the Asian Development Bank, the International Federation of Insolvency Professionals and the International Bar Association.

51. His delegation was of the view that CLOUT was of immense value in providing information regarding the interpretation and application of UNCITRAL texts in various countries, and in promoting their uniform interpretation and application by enabling, for example, judges and arbitrators to take into account decisions and awards rendered in other countries. It also considered the seminars and briefing missions organized by the UNCITRAL secretariat to be particularly important for promoting awareness of its work and encouraging wider acceptance of the conventions and model laws adopted by it. Lastly, he welcomed cooperation by UNCITRAL with other bodies working in related fields and, in particular, its cooperation with the International Maritime Committee in identifying areas of maritime law where rules could be harmonized. In that connection, harmonization in the area of carriage of goods by sea and multimodal transport of goods would be particularly useful.

52. **Mr. Su** Wei (China) noted with particular satisfaction the increase in the number of countries which had acceded to the conventions drafted by UNCITRAL and the wide application of the UNCITRAL conventions and model laws in many countries. With regard to the work of UNCITRAL, he said, first of all that its programme of work should be better organized. During the most recent session, the discussion of the draft convention on assignment of receivables had taken up an inordinate amount of time, at the expense of other agenda items. Second of all, UNCITRAL should increase its assistance to Member States, particularly the developing countries, and provide more training to their human capital, thereby narrowing the gap between them and the developed countries with regard to development and legislative capacities and enabling them to work more effectively.

53. The UNCITRAL conventions and model laws had played an important role in international trade; however, there was room for improvement in that area. In that connection, those conventions and model laws should be recognized and accepted by an ever increasing number of countries, which would require, on the one hand, the adoption of measures by Governments and, on the other hand, efforts by UNCITRAL to heed more closely the views of all parties and the specific circumstances of various countries and to launch a vigorous campaign to disseminate its legal instruments. Lastly, his delegation called on the General Assembly to provide greater support to the work of UNCITRAL so that it could continue to advance effectively.

54. **Ms. Álvarez Núñez** (Cuba) said that the international community and the United Nations, particularly UNCITRAL, should facilitate sustainable integration of the developing countries into the world economy. Her delegation was seriously concerned at attempts by certain developed countries to impose new conditions on trade and to include elements which were alien to the very essence of trade-related negotiations and rules. There had been an unprecedented increase in sanctions and coercive measures that contravened the multilateral trade system, such as the Helms-Burton Act imposed against Cuba, which constituted a deplorable example of a breach of international law, the World Trade Organization agreements, the principles of free trade and the principles upon which UNCITRAL itself was founded.

55. Cuba was making considerable efforts to integrate itself into the global economy. It therefore attached great importance to the work of UNCITRAL, which was helping to remove legal obstacles to world trade, particularly those affecting the developing countries, and was also contributing to economic cooperation among States on the basis of equality, equity and common interests. It was therefore important that States at all levels of development and with different legal systems should take part in the Commission's work. After having had difficulties for several years, Cuba had been able to participate in a specialized manner in the work of UNCITRAL during its thirty-third session, as an observer, and would be involved directly in future.

56. Her delegation noted the report presented by UNCITRAL and the recommendations contained therein, and was gratified that the Committee had

accepted the recommendation that it should give further consideration to other matters related to electronic commerce. The competent working group should carry on with its very important work of coordination and general consultancy in the field of electronic commerce. As for Cuba, a Cuban National Advisory Commission on Electronic Commerce had been set up in January 1999 by means of a legislative measure, on the basis of the UNCITRAL Model Law on Electronic Commerce. That Commission was currently working on integrating old and new rules and practices in that field. It was making progress on preparing the national infrastructure and providing training to the specialists who would develop e-commerce applications. Cuba had already amended its Commercial Code and Civil Code to incorporate the provisions of the relevant international instruments, four of which were UNCITRAL conventions, and about 20 Cuban enterprises were conducting electronic trade transactions.

57. Her delegation commended UNCITRAL for its progress in preparing the draft convention on assignment of receivables in international trade, and welcomed the adoption of the Legislative Guide on Privately Financed Infrastructure Projects.

58. **Ms. Abbas** (Indonesia) welcomed the progress made on articles 1 to 17 of the draft convention on assignment of receivables. The unification of laws in that field was important, especially for countries like Indonesia, because the development of legal norms relating to assignment of receivables and the opportunity for developing countries to generate credit from capital markets at a lower cost would offer those countries immense opportunities to participate as equal partners in international trade.

59. As for privately financed infrastructure projects, her delegation believed that the draft legislative recommendations offered guidance to Member States to update, review and codify national legislation on that subject and would constitute a firm foundation for providing even more concrete guidance in future to States with economies in transition and developing countries. Regarding the feasibility of the preparation of a model law or model legislative provisions, she proposed that a colloquium should be held, consisting of experts from various legal and economic systems, to consider the course of action to be taken.

60. On the subject of electronic commerce, her delegation supported the widely held view that the future work of UNCITRAL should be focused on three main areas, namely, electronic contracting, dispute settlement and the dematerialization of documents of title. As for the insolvency regime, it would be more practical to produce a legislative guide rather than adopting universal rules, in light of the various national legal and public policy approaches. Lastly, her delegation was gratified by the system established by the Commission for chronicling and disseminating court decisions and arbitral awards based on its model laws and conventions. She reiterated her delegation's support for the mandate that had been given to the Commission to codify and develop international trade law; she pointed out, however, that it should be carried out with due consideration for the interests and needs of developing countries. She thanked the Commission for the training and technical assistance programmes it was organizing and hoped that they would be sustained and further enhanced.

61. **Mr. Krokhmal** (Ukraine) welcomed the adoption of the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects, which would undoubtedly become a useful instrument for the creation of a legal framework conducive to increasing private investments, in particular in the developing countries and countries with economies in transition, and for better protecting the interests of recipient Governments and users of the infrastructure facilities. The Guide should be disseminated as widely as possible, and he suggested the Secretariat organize a colloquium to discuss it.

62. His delegation appreciated the significant progress achieved by the Working Group on International Contract Practices and hoped it would be able to finalize the draft convention on assignment of receivables in international trade at the Commission's thirty-fourth session.

63. The Working Group on Arbitration should give priority to items such as conciliation, requirement of a written form for the arbitration agreement and enforceability of interim protection measures.

64. The Commission's training and technical assistance activities played an important role in developing and promoting international trade law standards, especially in countries with economies in transition. Given that a number of requests for such

assistance had been refused owing to a lack of sufficient resources, it would be appropriate to request the Secretary-General to consider all possible ways to increase the financial resources available to the Commission and its secretariat.

65. **Mr. Akamatsu** (Japan) welcomed the adoption of the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects by the Commission as well as the adoption of the draft uniform rules on electronic signatures by the Working Group on Electronic Commerce.

66. He also welcomed the progress made by the Working Group on International Contract Practices with regard to the draft convention on assignment of receivables in international trade and hoped the draft could be approved at the Commission's thirty-fourth session, without increasing the financial burden on the Organization.

67. With regard to future work in the area of privately financed infrastructure projects, he said the Commission should give itself sufficient time to review the use made of the Legislative Guide by domestic legislators and policy makers, so as to be in a better position to take a decision on the desirability of preparing a model law or model legislative provisions.

68. Significant progress had been achieved by the Working Group on Electronic Commerce, and Japan, a country which had legislation on electronic signatures, was eager to contribute to related international efforts. With regard to international commercial arbitration, the Commission should first address and thoroughly discuss high-priority issues.

69. Finally, he stressed the need for a strong insolvency regime and consistency among the national legislations. In the light of the fact, however, that each country had its own domestic regime, in particular with regard to company law, it would not be easy to prepare uniform rules in that regard, and the feasibility of and expectations for that project required careful study.

Other matters

70. **The Chairman** said that the Chairman of the Fifth Committee had requested that he should draw delegations' attention to the recommendation made by the Committee for Programme and Coordination relating to the proposed medium-term plan for the period 2000-2005, which had been endorsed by the General Assembly in paragraph 2 of its resolution 54/236 of 23 December 1999. The relevant part of the medium-term plan was contained in document A/55/6 (Programme 5). Once delegations had made their views known, a decision would be taken on how best to transmit them to the Fifth Committee.

The meeting rose at 12.30 p.m.